

**ORAL ARGUMENT NOT YET SCHEDULED**

**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

NATIONAL ASSOCIATION OF CHEMICAL  
DISTRIBUTORS, d/b/a ALLIANCE FOR  
CHEMICAL DISTRIBUTION; AMERICAN  
CHEMISTRY COUNCIL; AMERICAN FUEL &  
PETROCHEMICAL MANUFACTURERS;  
AMERICAN PETROLEUM INSTITUTE;  
CHAMBER OF COMMERCE OF THE  
UNITED STATES OF AMERICA; and  
SOCIETY OF CHEMICAL  
MANUFACTURERS & AFFILIATES,

*Petitioners,*

v.

U.S. ENVIRONMENTAL PROTECTION  
AGENCY,

*Respondent.*

Case No. 24-1127  
(consolidated with  
Case No. 24-1125)

**PETITIONERS' NONBINDING STATEMENT OF ISSUES**

Pursuant to this Court's order of May 14, 2024, petitioners National Association of Chemical Distributors, d/b/a Alliance for Chemical Distribution, American Chemistry Council, American Fuel & Petrochemical Manufacturers, American Petroleum Institute, Chamber of Commerce of the United States of America, and Society of Chemical

Manufacturers & Affiliates submit this Nonbinding Statement of Issues in the consolidated cases challenging the final action of the United States Environmental Protection Agency (“EPA”), entitled *Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention*, published at 89 Fed. Reg. 17,622 (March 11, 2024) (“Final Rule”).

Without waiving any right to raise additional issues, petitioners submit that they intend to raise the following issues:

1. Whether EPA acted arbitrarily, capriciously, and not in accordance with law or exceeded its statutory authority by imposing third-party audit requirements and by requiring reporting to the audit committee of the Board of Directors of an owner or operator, or other comparable committee or individual;

2. Whether EPA acted arbitrarily, capriciously, and not in accordance with law or exceeded its statutory authority by mandating a needlessly burdensome safer technology and alternatives analysis (“STAA”) and by requiring that certain covered facilities implement measures identified during the STAA;

3. Whether EPA acted arbitrarily, capriciously, and not in accordance with law or exceeded its statutory authority with regard to the applicability of new recognized and generally accepted good engineering practices (“RAGAGEP”) by imposing a RAGAGEP gap analysis; and

4. Whether EPA acted arbitrarily, capriciously, and not in accordance with law or exceeded its statutory authority by imposing onerous information-availability requirements, which unreasonably compel disclosure of sensitive information.

Dated: June 13, 2024

Respectfully submitted,

MATTHEW M. KING  
AMERICAN CHEMISTRY COUNCIL  
700 2nd Street, NE  
Washington, DC 20002  
(202) 249-7012  
*Counsel for Petitioner American  
Chemistry Council*

RYAN MEYERS  
JOHN WAGNER  
PATRICK DAVIS  
AMERICAN PETROLEUM INSTITUTE  
200 Mass. Ave., NW  
Washington, DC 20001  
*Counsel for Petitioner American  
Petroleum Institute*

/s/ Justin A. Savage  
JUSTIN A. SAVAGE  
KWAKU A. AKOWUAH  
MANUEL VALLE  
SIDLEY AUSTIN LLP  
1501 K Street, NW  
Washington, DC 20005  
(202) 736-8853  
jsavage@sidley.com  
*Counsel for Petitioners*

RICHARD MOSKOWITZ  
TYLER KUBIK  
AMERICAN FUEL & PETROCHEMICAL  
MANUFACTURERS  
1800 M. Street, NW  
Washington, DC 20036

ANDREW R. VARCOE  
CHRISTOPHER J. WALKER  
U.S. CHAMBER LITIGATION CENTER  
1615 H Street, NW  
Washington, DC 20062  
(202) 463-5337

*Counsel for Petitioner Chamber of  
Commerce of the United States of  
America*

*Counsel for Petitioner American  
Fuel & Petrochemical  
Manufacturers*

ROBERT F. HELMINIAK  
SOCIETY OF CHEMICAL  
MANUFACTURERS & AFFILIATES  
1400 Crystal Drive, Suite 630  
Arlington, VA 22202  
(571) 348-5107

*Counsel for Petitioner the Society  
of Chemical Manufacturers and  
Affiliates*

## CERTIFICATE OF SERVICE

I hereby certify that on June 13, 2024, I caused the foregoing Nonbinding Statement of Issues to be served by electronic means through the Court's CM/ECF system, on all counsel of record.

Dated: June 13, 2024

Respectfully submitted,

/s/ Justin A. Savage

Justin A. Savage

Kwaku A. Akowuah

Manuel Valle

SIDLEY AUSTIN LLP

1501 K Street, NW

Washington, DC 20005

(202) 736-8853

jsavage@sidley.com

*Counsel for Petitioners*